

Updated Reference Standard 90.1 for § 179D

Announcement 2024-24

This announcement notifies taxpayers of the applicable Reference Standard 90.1 required under § 179D(c)(2) of the Internal Revenue Code (Code) as part of the definition of energy efficient commercial building property (EECBP). This announcement supplements and supersedes Announcement 2023-1, 2023-3 I.R.B. 422 (2023), by affirming ASHRAE/IES Reference Standard 90.1-2022 (Reference Standard 90.1-2022) as the applicable Reference Standard 90.1 for EECBP placed in service after December 31, 2028, and the construction of which did not begin by December 31, 2022. The effective date of this announcement is May 17, 2024.

Section 179D provides a deduction for the cost of EECBP placed in service during the taxable year. Section 179D(c)(1) defines EECBP as property (A) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, (B) which is installed on or in any building located in the United States and within the scope of Reference Standard 90.1, (C) which is installed as part of (i) the interior lighting systems, (ii) the heating, cooling, ventilation, and hot water systems, or (iii) the building envelope, and (D) which is certified in accordance with § 179D(d)(5) as being installed as part of a plan designed to reduce the total annual energy and power costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the building by 25 percent or more in comparison to a reference building that

meets the minimum requirements of Reference Standard 90.1 using methods of calculation under § 179D(d)(1).

Since § 179D was enacted in 2005, § 179D(c)(2) has provided as the applicable reference standard for EECBP a version of Reference Standard 90.1 as published by the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) and the Illuminating Engineering Society of North America (IES). For EECBP placed in service before January 1, 2015, Reference Standard 90.1-2001 applied. For EECBP placed in service after December 31, 2014, and before January 1, 2021, Reference Standard 90.1-2007 applied. For EECBP placed in service after December 31, 2020, § 179D(c)(2), as amended by the Taxpayer Certainty and Disaster Relief Act of 2020, defined “Reference Standard 90.1” to mean, with respect to any property, the most recent Standard 90.1 published by the ASHRAE and the IES that has been affirmed by the Secretary of the Treasury or her delegate (Secretary), after consultation with the Secretary of Energy, for purposes of § 179D not later than the date that is 2 years before the date that construction of such property begins. This statutory amendment changed the reference date for application of Reference Standard 90.1 from the placed in service date to the beginning of construction date.

Section 13303 of Public Law 117-169, 136 Stat. 1818, 1947 (August 16, 2022), commonly known as the Inflation Reduction Act of 2022 (IRA), amended § 179D for taxable years beginning after December 31, 2022. This amendment returned the reference date for application of Reference Standard 90.1 to the date the EECBP is placed in service. Section 179D(c)(2), as amended, defines the term “Reference Standard 90.1” as meaning, with respect to any property, the more recent of:

(A) Standard 90.1-2007 published by the ASHRAE and the IES, or

(B) The most recent Standard 90.1 published by the ASHRAE and the IES for which the Department of Energy (DOE) has issued a final determination and which has been affirmed by the Secretary, after consultation with the Secretary of Energy, for purposes of § 179D not later than the date that is 4 years before the date such property is placed in service.

For EECBP placed in service after December 31, 2026, and for which construction began after December 31, 2022, Reference Standard 90.1-2019 applies.¹

On March 6, 2024, the DOE determined that the updated edition Reference Standard 90.1-2022² would improve energy efficiency in commercial buildings. Upon publication of this affirmative determination, each State is required to review the provisions of its commercial building code regarding energy efficiency, and, as necessary, update its codes to meet or exceed Reference Standard 90.1-2022 not later than 2 years from March 6, 2024.

The Secretary, after consultation with the Secretary of Energy, hereby affirms Reference Standard 90.1-2022 as the applicable Reference Standard 90.1 for purposes of calculating the annual energy and power consumption and costs with respect to the interior lighting systems, heating, cooling, ventilation, and hot water systems of the reference building as follows: Reference Standard 90.1-2022 will be the applicable standard for EECBP that is placed in service after December 31, 2028. Taxpayers for whose EECBP construction began by December 31, 2022, or who already placed

¹ See Announcement 2023-1.

² *Final Determination Regarding Energy Efficiency Improvement in ANSI/ASHRAE/IES Standard 90.1-2022*, 89 FR 15983 (March 6, 2024).

EECBP in service or will place EECBP in service by December 31, 2028, are not subject to Reference Standard 90.1-2022. The table below provides the applicable Reference Standard 90.1 based on the date the EECBP is placed in service.

Taxpayers for whose EECBP construction began before January 1, 2023, may apply Reference Standard 90.1-2007 regardless of when the EECBP is placed in service.

Date EECBP Placed in Service	Applicable Reference Standard 90.1
Before 1/1/2015	Reference Standard 90.1-2001
After 12/31/2014 and before 1/1/2027	Reference Standard 90.1-2007
After 12/31/2026 and before 1/1/2029	Reference Standard 90.1-2019
After 12/31/2028	Reference Standard 90.1-2022

The principal author of this announcement is the Office of Associate Chief Counsel (Passthroughs & Special Industries). However, other personnel from the Treasury Department and the IRS participated in its development. For further information regarding this announcement, call the energy security guidance contact number at (202) 317-5254 (not a toll-free call).